

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN LOFTON,
Plaintiff,

v.

VERIZON WIRELESS (VAW) LLC,
Defendant.

Case No. [13-cv-05665-YGR](#) (JSC)

**ORDER RE: JOINT DISCOVERY
LETTER**

Re: Dkt. No. 51

In this putative class action, Plaintiff John Lofton seeks to compel documents from Defendant Verizon Wireless (VAW) LLC (“Verizon”). After carefully considering the parties’ joint discovery letter, the Court concludes that oral argument is unnecessary, *see* Civ. L.R. 7-1(b), and orders as follows.

Plaintiff contends that Verizon has failed to promptly produce documents in response to his Request for Production (“RFP”) Nos. 53 and 54. Verizon responds that it will serve “meaningful” supplemental document disclosures by October 31, 2014. (Dkt. No. 51 at 3.) Plaintiff neither replies to Verizon’s proposal nor provides an alternative proposal. The Court accordingly ORDERS that Verizon supplement its document production in response to RFP Nos. 53 and 54 by October 31, 2014 and that the parties meet and confer regarding further supplementation.¹

Plaintiff also seeks production of documents responsive to his RFP Nos. 51, 52, and 59 to 61. Verizon stated in its supplemental responses on September 10, 2014 that it would produce

¹ Verizon laments Plaintiff’s document production to date and requests that Plaintiff also be ordered to supplement his document production by October 31, 2014. Because it does not appear that the parties have met and conferred regarding Plaintiff’s document production, the Court DENIES Verizon’s request without prejudice.

documents responsive to those requests, with the exception of No. 60,² but failed to provide a date by which it would produce those documents. The parties' joint letter does not address the timing of the agreed-upon production. The Court accordingly ORDERS Verizon to begin production of all documents responsive to RFP Nos. 51, 52, 59, and 61 by October 31, 2014. The parties shall meet and confer regarding a schedule for further production of responsive documents. The Court alerts the parties that their discovery efforts should focus on the documents each side needs for the class certification briefing, which is set to commence on December 16 of this year. (*See* Dkt. No. 38.)

Finally, Plaintiff seeks to compel documents responsive to RFP Nos. 49 and 50. Verizon asserts that such documents are in the possession of third parties and that the documents are not otherwise under its control. Plaintiff responds that, prior to removal, the state court judge determined that Verizon had contractual control over the documents of at least some of its third-party vendors. However, the state court judge made this so-called determination only in an informal email expressing his tentative view on the matter and only with respect to one third party (Collecto). (*See* Dkt. No. 42-1 ¶ 4 (“[I]n an October 10, 2013 email, the state court stated its ‘recollection is that the Collecto-Verizon agreement granted Verizon control records pertaining to Collecto’s collection efforts on Verizon accounts.’”).) The Court is not persuaded that the state court settled the dispute, even in regards to Collecto. Plaintiff states that if the Court is not going to follow the state court’s “determination,” he would like to provide additional briefing on the matter. The Court accordingly sets the following supplemental briefing schedule, which may be changed by the parties’ stipulation:


Plaintiff provides his portion of the supplemental letter to Verizon:	By Oct. 29, 2014
Verizon provides its supplemental response to Plaintiff:	By Nov. 5, 2014
Plaintiff replies and submits the supplemental letter to the Court:	By Nov. 10, 2014 at 9:00 a.m.
Plaintiff and Verizon are each allotted six pages of briefing so that the supplemental joint	

² Verizon asserted that documents responsive to No. 60 were no longer available to it. (*See* Dkt. No. 51-1 ¶ 18.) Plaintiff does not challenge this assertion in the joint letter.

letter brief shall not exceed 12 pages.

IT IS SO ORDERED.

Dated: October 22, 2014



JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California